

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEROME CEASAR ALVERTO,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS, et
al.,

Defendants.

CASE NO. C12-5518 BHS

ORDER DENYING MOTION
FOR EXTENSION OF TIME

This matter comes before the Court on Plaintiff Jerome Ceasar Alverto's ("Alverto") fourth motion¹ for extension of time to file objections to Magistrate Judge Strombom's Report and Recommendations ("R&R"). Dkt. 65. The Court has considered the pleadings filed in support of the motion and the remainder of the file. For the reasons stated herein, the motion is denied as set forth below.

On January 31, 2014, Alverto filed his second motion for an extension of time. Dkt. 60 at 2. Alverto asked for an extension to February 20, 2014. *Id.* Defendants filed no response.

¹ Although Alverto entitles his motion a "second motion for extension of time," as this order will demonstrate, it is not.

1 During the pendency of Alverto's second motion for an extension of time, on
2 February 10, 2014, he filed a third motion for extension of time to file his objections to
3 the R&R. Dkt. 61. Alverto claimed that on January 21, 2014, he received three boxes
4 containing his personal legal papers from his prior facility, but he maintained that
5 documents necessary to respond to the R&R are missing. *Id.* at 2. For example, he
6 asserted that his legal notes, affidavits, witness statements as well as other documents
7 were not transported to him by the Department of Corrections ("DOC"). *Id.* In his third
8 motion for extension of time, Alverto did not specify a date certain by which he could
9 respond because he indicated that he did not know when DOC would supply him the
10 documents that were missing from the legal materials. Dkt. 61 at 3.

11 On February 20, 2014, the Court issued an order granting Alverto's second motion
12 for an extension of time, in part because it was unopposed. Dkt. 62. Due to the time it
13 takes for orders and pleadings to reach Alverto, the Court found his requested time for
14 extension (February 20, 2014) would have passed by the time the order reached him;
15 therefore, it granted an extension of time until March 21, 2014. The Court also set forth
16 its expectations for Defendants' response to the third motion for extension of time,
17 requesting they provide the information necessary to determine whether a further
18 extension would be required. *Id.* at 3.

19 On February 25, 2014, Defendants filed a response to Alverto's third motion for
20 an extension of time. Dkt. 63. Defendants set forth a timeline, supported by declarations,
21 demonstrating that Alverto's boxes of property were transported to him by DOC chain
22 buses to his new facility at Airway Heights and stating that Coyote Ridge, his former

1 correctional facility, was no longer in possession of any of his belongings. Dkt. 63 at 2.
2 Additionally, Defendants maintained Alverto was either issued or given access to his
3 boxes of property between January 8, 2014 and January 27, 2014. *Id.* (citing Declaration
4 of Larry Adams, Airway Heights' property Sergeant). Further, Sgt. Adams stated that he
5 was not aware of any staff taking or destroying Alverto's property, and he indicated that
6 DOC does not have a tracking system for inmates' legal documents and personal papers
7 and thus has no way of knowing if something particular is missing. *Id.*

8 On March 10, 2014, the Court denied Alverto's third motion for extension of time.
9 Dkt. 64. The Court was satisfied that DOC had taken reasonable measures to ensure that
10 Alverto's legal documents and papers were sent to him and that he was given access to
11 them. *Id.* Additionally, the Court agreed with Defendants that Alverto provided no
12 evidence in his motion that DOC destroyed or otherwise deprived him of access to his
13 legal or personal documents. *Id.* Further, the Court found relevant that Alverto filed no
14 reply to Defendants' response, thus failing to produce evidence that would demonstrate
15 anything contrary to what the Defendants' response indicated. *Id.* The Court concluded
16 no further extension, beyond the March 21, 2014 date, was necessary. *Id.*

17 During the pendency of Alverto's third motion for extension of time, on March 13,
18 2014, he filed the instant fourth motion for extension of time. Dkt. 65. Alverto's present
19 motion is premised on the same bases that his third motion for extension of time was
20 premised. *Id.* That is, DOC failed to deliver, destroyed or otherwise prevented him from
21 accessing some of his personal legal materials, and he is uncertain when they will provide
22

1 him with all his legal documents, thus he is unable to file his objections and does not
2 know when he will be able to do so. *See id.*

3 For the same reasons the Court denied Alverto's third motion for extension of
4 time, it also denies his fourth motion for extension of time. If Alverto wished to
5 challenge the Defendants' response to his third motion for an extension of time, he
6 should have done so by filing a reply brief before the noting date for that motion.
7 However, even if the instant motion was filed as a reply to Alverto's third motion for
8 extension of time, the Court still would have denied it, as he has produced no evidence
9 demonstrating that DOC is responsible for the loss of, destruction of, or lack of access to
10 his legal papers.

11 It is hereby **ORDERED** that Alverto's fourth motion for an extension of time
12 (Dkt. 65) is **DENIED**. Alverto has until March 21, 2014, to file his objections. No
13 further motions for extension of time to file objections to the R&R will be considered by
14 this Court.

15 Dated this 18th day of March, 2014.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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